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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/557,294	11/18/2005	Alan Timothy Gibbs	BWT2-72511	7337
24201	7590	06/26/2009		
FULWIDER PATTON LLP HOWARD HUGHES CENTER 6060 CENTER DRIVE, TENTH FLOOR LOS ANGELES, CA 90045			EXAMINER VENNF, DANIEL V	
			ART UNIT	PAPER NUMBER
			3617	
			MAIL DATE	DELIVERY MODE
			06/26/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/557,294

Applicant(s)

GIBBS ET AL.

Examiner

DANIEL V. VENNE

Art Unit

3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 June 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34, 38 and 42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-34, 38 and 42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 November 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/088)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/15/2008 has been entered.

2. No claims are amended; claims 35-37 and 39-41 are canceled.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-34, 38 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roycroft (US 6855017 B2), in view of Gere et al. (US 5590617), and further in view of Tsaki et al. (US 5244425). Roycroft discloses an amphibious vehicle with fluid inlet, outlet and conduit, impeller (which can be driven in forward and reverse direction), stator, power take off, drive shaft(s) (drive and axle shafts) skewed horizontally and/or vertically relative to the longitudinal axis of the vehicle, universal and constant velocity joint(s) [18, 20], with rotatable impeller housed within a conduit between a fluid inlet and fluid outlet (water jet unit) [48], and configured as claimed (see Figs. 1-3). Roycroft does not specifically disclose a fluid inlet positioned in a surface of

a planing hull; however, the hull shown in Fig. 3 can be considered a planing hull and a fluid inlet for the water jet pump [48] is inherent for the waterjet to function. Gere et al. discloses a planing hull with a water jet pump [54] for an amphibious vehicle. Tasaki et al. discloses a water jet unit [6] provided with a water inlet portion [22], formed integrally with the hull [2], which begins at a location beneath the watercraft as a water inlet opening [24]. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to provide a fluid inlet positioned in the surface of the planing hull of Roycroft as disclosed by Gere et al. and Tasaki et al. to create the invention as claimed by applicant. The motivation would have been to provide an effective and streamlined means in the bottom surface of the planing hull for inlet water for the jet pump. The recited ratios, ranges and values presented in the claims are considered obvious to one of ordinary skill in the art to which the subject matter pertains as a matter of engineering design choice in order to enhance and optimize performance characteristics for the jet drive; it would have been obvious to one of ordinary skill in the art to adjust the recited ratios, ranges and values in order to optimize thrust and performance attributes as desired for the jet drive for improving upon the performance of the watercraft. The recited ratio of thrust to intake length of the jet drive being at least 18 kN per meter of claim 1 is mentioned in the abstract only and not in the specification, and is considered insufficiently explained and inadequately supported by the disclosure.

Response to Arguments

5. Applicant's arguments filed 4/15/2008 have been fully considered but they are not persuasive. Applicant argues that the claimed ratios, ranges and values recited for the jet drive fall outside conventional efforts to enhance and optimize performance and that the ultimate result is a jet drive that is capable of delivering a thrust to intake length ratio of greater than 18 KN per meter and positioned completely within the hull of a watercraft, has not been achievable in the prior art. The examiner's position as indicated above is that it would have been obvious to one of ordinary skill in the art to adjust the ratios, ranges and values recited for the jet drive as desired to enhance the performance characteristics for the jet drive and watercraft. Applicant has not provided any additional evidence such as experimental data and/or affidavits to support arguments that the ratios, ranges and values recited in the claims achieve unexpected results or are not obvious to one of ordinary skill in the art as a matter of engineering design choice. Applicant's specification does not adequately support applicant's arguments regarding the 18kN per meter limitation, since this limitation is only mentioned in the abstract and in the claims, but is not indicated, explained or described in the specification. It is the examiner's position that the applicant has not sufficiently supported the contention that the recited ratios, ranges and values in the claims are not obvious engineering design choices for optimizing and achieving a desired performance of the jet drive, for the intended use of propulsion in an amphibious vehicle. For the above reasons, the rejection above is considered valid and is not withdrawn.

Conclusion

6. This is a continuation of applicant's earlier Application No. 10/557294. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel V. Venne whose telephone number is (571) 272-7947. The examiner can normally be reached between 7:30AM - 4:00PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel J. Morano can be reached on (571) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DVV

/Lars A Olson/

Primary Examiner, Art Unit 3617